



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1082]

Certain Gas Spring Nailer Products and Components Thereof

Commission Decision Not to Review an Initial Determination Granting Complainant's Motion to Amend the Notice of Investigation to Add Claim 30 of U.S. Patent 8,267,297

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) (Order No. 15) of the Chief Administrative Law Judge (“CALJ”) granting Complainant’s motion to amend the Notice of Investigation (“NOI”) to add claim 30 of U.S. Patent No. 8,267,297 (“the ’297 patent”).

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708-4716. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: On November 20, 2017, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337

(“section 337”), based on an amended and supplemented complaint filed by Complainant Kyocera Senco Brands Inc. (“Kyocera”) of Cincinnati, Ohio. *See* 82 FR 55118-19 (Nov. 20, 2017). The amended complaint, as supplemented, alleges a violation of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain gas spring nailer products and components thereof, by reason of infringement of one or more of U.S. Patent No. 8,011,547; U.S. Patent No. 8,267,296; U.S. Patent No. 8,267,297; U.S. Patent No. 8,387,718; U.S. Patent No. 8,286,722; and U.S. Patent No. 8,602,282. *See id.* The amended complaint named one respondent, namely, Hitachi Koki U.S.A., Limited (“Hitachi”) of Braselton, Georgia. The Office of Unfair Import Investigations is not a party to the investigation. *See id.*

On June 4, 2018, Complainant Kyocera filed a motion (*Motion*) to amend the NOI to add claim 30 of the ’297 patent on the basis that it was inadvertently omitted as a result of a clerical error. The ID finds that “good cause exists for amending [the NOI]” under Commission Rule 210.14(b), 19 CFR 210.14(b). *See* ID at 2-3. Specifically, the ID reasons that “[c]orrecting a clerical error constitutes good cause to amend [the NOI]” and that “Complainant did not improperly delay in bringing [the *Motion*].” *See id.* at 3. The ID also finds that “amending the [NOI] to add claim 30 will not prejudice Respondent” because “[t]he parties proceeded throughout discovery as if claim 30 was within the scope of the Investigation.” *See id.* at 4.

No petition for review of the subject ID was filed. The Commission has determined not to review the ID.

The authority for the Commission’s determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission’s Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: July 9, 2018.

Lisa Barton,
Secretary to the Commission

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